



भारत का राजपत्र The Gazette of India

असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 8th December, 2006:—

I

BILL NO. LXXXI OF 2006

A Bill to provide for the compulsory use of mother tongue in imparting basic and primary education to children of tender age by all educational institutions so as to enable them to learn their lessons easily which will help them in properly developing their faculties and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Basic and Primary Education (Compulsory Imparting in Mother Tongue) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) “basic education” means education provided in preparatory schools or kindergarden and such other schools by whatever name called;

(c) "educational institution" includes all schools whether run by Government or Government body or private individual, association or trust, whether aided by Government or not, recognized or unrecognized, imparting education to the children from beginning of basic education;

(d) "mother tongue" means the language generally spoken in the family of the child who learns it from his mother and other family members and which is one of the languages mentioned in the Eighth Schedule to the Constitution of India;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "primary education" includes education up to the level of middle class or standard.

Compulsory
imparting of
basic and
primary
education in
mother tongue
of the child

3. (1) Notwithstanding anything contained in any other law for the time being in force, every educational institution including those established by minorities, religious or linguistic ones, shall impart basic and primary education to the children in their mother tongue or dialect generally spoken in the region or State, as the case may be, where such an institution is located, in addition to Hindi or English language, as the case may be, so as to properly develop the faculties of the children.

(2) It shall be the duty of the appropriate Government to ensure strict compliance of the provisions of sub-section (1) in such manner as may be prescribed.

(3) For the purposes of sub-section (1) the appropriate Government shall appoint language teachers in all Government run or aided schools and shall provide requisite infrastructure for that purpose.

(4) The appropriate Government shall derecognize the educational institutions not complying with the provisions of this Act for such period as it may deem necessary and impose such other sanctions as may be prescribed after giving such institutions a reasonable opportunity to defend their cases.

Power to
exempt.

4. The appropriate Government may either retrospectively from the enactment of this Act or prospectively exempt from the operation of the provisions of this Act, the members of any race, sect or tribe to which it may consider it impossible or inexpedient to apply the provisions of this Act.

Central
Government
to provide
funds.

5. The Central Government shall, after due appropriation made by law by Parliament in this behalf, provide requisite funds to the States for appointing language teachers and providing other infrastructure required for the purposes of this Act.

Power to
remove
difficulty.

6. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may make such order or give such direction, not inconsistent with the provisions of this Act, as appears to it to be necessary or expedient for the removal of the difficulty:

Provided that no such order shall be made or direction be given after three years of the commencement of this Act.

Act to have
overriding
effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be made in addition to and not in derogation of any other law for the time being in force.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

For a child the easiest language is his mother tongue. He learns to speak his mother tongue from his mother and family members who generally speak the language spoken from generations or the dialect of their forefathers or of the area or region in which they reside. In major parts of our country, Hindi is the main language with different dialects at different places but it is written in Devanagari script and can be understood easily. Then there are regional languages. A total of 22 languages have been recognized by our Constitution. The mother tongue, no doubt, is the best language for a child to develop his faculties but when he or she is admitted in the play school or Kindergarden or primary school more so in the so-called elite or public schools, the child has to switch over to English medium, which is the medium of instruction in such schools. At this stage the real difficulty of the child begins. He speaks a particular language but the education is imparted in a different language. This causes strain and in order to become a part of the system he starts ignoring his own mother tongue. In the Hindi speaking areas, students of public schools cannot count in Hindi and do not recognize Hindi alphabets because they cannot speak in their language and have to speak only in English. In many schools students are penalized if they speak in any other language than English. Though the child learns English in compulsion but he is not at ease with this language and on the other hand he does not develop sufficient knowledge of his own language. It is therefore necessary that a child should be imparted basic and primary education in his mother tongue, which is the easiest language for him. Thereafter, the child grows up and he can acquire the skills in other languages and opt for the language of his choice for his further studies.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 5 of the Bill makes it obligatory for the Central Government to provide requisite funds to the States for carrying out the purposes of this Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

II

BILL NO. LXXXIII OF 2006

A Bill to provide for the compulsory maintenance, protection and welfare of senior citizens so as to secure a life of dignity, peace and security for them and for the welfare measures to be undertaken by the State for its aged citizens and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Senior Citizens (Maintenance, Protection and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "indigent" means a senior citizen who, due to age related infirmity or disability or ailment, is incapable to earn his livelihood and who has no independent and adequate means of livelihood;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "senior citizen" means any citizen who is sixty or more years of age.

3. The Central Government shall, as soon as may be, but within one year of commencement of this Act, review the existing policy, if any, and formulate a National Policy for the overall welfare, care and protection of the senior citizens so as to give them a secure life of dignity at the fag end of their lives.

National Policy for the senior citizens.

4. (1) Notwithstanding anything contained in any other law for the time being in force it shall be the duty of every person to take care, look after and maintain his parents and grand parents and more so who do not have any source of income or sustenance, as the case may be.

Compulsory maintenance of senior citizens by their kins.

(2) Whoever fails to comply with the provisions of sub-section (1) shall be guilty of an offence under this Act.

5. The appropriate Government shall maintain district wise register of senior citizens with such details and particulars and in such manner as may be prescribed.

Register of senior citizens.

6. (1) The Central Government shall establish and maintain sufficient number of senior citizens' homes at conspicuous places in the country in consultation with the concerned Governments of the States and Union Territory Administrations and provide all necessary facilities in such homes as may be prescribed.

Establishment of senior citizens' homes.

(2) All indigent and other senior citizens abandoned or neglected by their kith and kin shall be kept in the homes referred to in sub-section (1) by the appropriate Government.

(3) Apart from the facilities of day to day life, the homes shall also provide means of entertainment and such recreational facilities which may help the senior citizens residing in such homes to overcome their distress at being indigent or being neglected by their kith and kin.

7. (1) Every senior citizen shall, on an application made in the prescribed format, be given rupees one thousand per month as financial assistance for his subsistence by the appropriate government in whose jurisdiction the senior citizen ordinarily resides and the financial assistance payable to such citizens shall be linked with the cost of living index so as to ensure a decent living to the senior citizens:

Financial assistance to senior citizens.

Provided that the financial assistance shall not be given to those senior citizens who are residing and being looked after in the senior citizens homes established under section 6.

(2) The financial assistance referred to in sub-section (1) shall be disbursed to the senior citizens through Government Treasury or any branch of a public sector Bank or Post Office as per the preference given by the concerned senior citizen in his application form.

8. The appropriate Government shall provide to every senior citizen,—

Medical and other facilities to the senior citizens

(a) free medical treatment in Government hospitals and dispensaries or other dispensaries, nursing homes and clinics recognized by the appropriate Government;

(b) free travel facilities by public transport and concessions in private owned transport;

(c) free pilgrimages within the country, pilgrimage to Mansarovar and Haj in such manner as may be prescribed;

(d) facilities for Yoga and other sports;

(e) interest free loans for housing and self-employment purposes.

Area Police
to provide
security to
senior citizens.

9. (1) Notwithstanding anything contained in any other law for the time being in force the local police of every Police Station or Police Post shall keep a record of all the senior citizens residing in its jurisdiction so as to provide maximum security to such citizens.

(2) It shall be the duty of the area Station House Officer or In-charge of the Police Post of the local Police as the case may be to provide maximum security to every lone senior citizen or lonely couple residing in his jurisdiction in such manner as may be prescribed.

Maintenance
Allowance in
certain cases.

10. (1) In case of non-compliance of the provisions of section 4 by any person, a Magistrate of the first class may, upon proof of such neglect or refusal by such person, order such person to make a monthly allowance or lump sum payment thereof for such period as may be prescribed for the maintenance of his father or mother or both, as the case may be and to pay the same to such senior citizen as the Magistrate may from time to time direct.

(2) The Magistrate may, before making an order under sub-section (1), consider all or any of the following matters:

(a) the average income, property or joint family property income of the person against whom maintenance order has to be passed;

(b) the standard of living of the family;

(c) any other matter which, in the circumstances, the Magistrate may consider relevant.

(3) An appeal shall lie to the concerned High Court from any order made by the Magistrate under sub-section (1).

Penalty.

11. If any person who is ordered to pay maintenance allowance under section 10 of this Act, fails without sufficient reasons to comply with the order or willfully refuses to maintain and take care of his parents or grand parents, as the case may be, shall be liable to imprisonment for a term which shall not be less than five years but may extend to ten years and also with fine which may extend to ten lakh rupees.

Central
Government
to provide
requisite funds.

12. The Central Government shall, after due appropriation made by Parliament by law in this behalf, provide requisite funds to the State Governments for carrying out the purposes of this Act.

Act to have
overriding
effect.

13. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to senior citizens in any part of the country.

Power to
make rules

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act;

STATEMENT OF OBJECTS AND REASONS

As per Census 2001, there were 7,66,22,321 senior citizens in our country and their population is growing very fast and by the year 2016 the population of senior citizens will be more than ten per cent of the total population of the nation. Majority of these senior citizens are unable to take care of themselves and do not have sufficient means to lead a decent and happy life. Due to near disintegration of joint family system and economic considerations by their kith and kin, the senior citizens are being ignored by their near and dear ones who are left to fend for themselves and compelled to lead a lonely and disappointed life. Though section 125 of the Code of Criminal Procedure, 1973 provides for maintenance allowance that the senior citizens can claim from their legal heirs, but generally the majority of senior citizens do not claim maintenance because of their ignorance or self-pride which compels them to disown their kith and kin who they feel have dumped them.

These days another alarming trend which is emerging is that lonely or couple senior citizens are being murdered either for their property or are robbed and they are becoming easy targets of the criminals. Hence it has become necessary to give utmost security to the senior citizens.

In a welfare State like ours, it is the duty of the Central and State Governments to look after the senior citizens so that they too lead a decent life at the fag end of their lives. For this, the Central Government should open Senior Citizen Homes, give financial assistance, medical aid and other facilities to the indigent and needy senior citizens so as to enable them to forget the wounds given by their own near and dear ones.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for the establishment of Senior Citizens Homes. Clause 7 provides for the financial assistance to senior citizens. Clause 8 provides for medical and other facilities for senior citizens. Clause 12 makes it obligatory for the Central Government to provide requisite funds for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees five thousand crore may involve as recurring expenditure per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

III

BILL NO. LXXXII OF 2006

A Bill to provide for the prevention of sexual harassment or exploitation of working women at their workplaces by their employers, superiors, fellow colleagues or by anyone who is directly or indirectly connected with such workplace through deterrent punishment and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Working Women (Prevention of Sexual Harassment At Workplaces) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of State the Government of that State and in other cases the Central Government;

(b) "employer" means,—

(i) in relation to an establishment under the control of the appropriate Government, the head of the Department or Ministry as the case may be;

(ii) in relation to an establishment under any local authority or Local Self Government, the Chief Executive Officer by whatever designation called;

(iii) in relation to other cases, the person or the authority who has the ultimate control over the affairs of the workplace;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "sexual exploitation or harassment" includes any unwanted or unwarranted gesture or verbal sexual advances, sexually explicit and derogatory statements or remarks, avoidable and unwarranted physical contacts, willfully touching or patting, suggestive sexual remarks, sexually slanted and obscene jokes, vulgar comments about physical appearance, indecent invitations, use of pornographic material, demand for sexual favours, demanding sexual favour by making telephone calls or sending SMS, threats of physical assault or molestation on refusal by the women workers by their male superiors, colleagues or any one who for the time being is in a position to sexually exploit or harass the working women at any workplace;

(e) "working woman" means any woman who is employed, whether directly or through any agency for wages or for similar other considerations at any workplace;

(f) "work place" includes a factory, mine, plantation, agricultural field, livestock rearing site including poultry, hospital or nursing home, shop or business establishment, brick kiln, construction site, banking or financial institutions including cooperative ones, Government or semi-Government establishments or departments including post offices and telecommunication, private office or service provider, cyber cafes and call centres, mobile phone companies, schools, colleges, universities and like institutions and such establishments wherein persons are employed for the exhibition of equestrian, acrobatic and other performances, airlines, film industry and any such other place where a woman is employed for any work whatsoever.

3. (1) Sexual exploitation or harassment of any working woman at her workplace is hereby prohibited.

Prohibition of sexual exploitation or harassment of working women at workplace.

(2) Whoever contravenes the provisions of sub-section (1) shall be guilty of an offence under this Act.

45 of 1960

4. Notwithstanding anything contained in the Indian Penal Code or any other law for the time being in force whoever contravenes the provisions of section 3 shall be punished with imprisonment for a term which shall not be less than three years but may extend to five years and also with fine which may extend to two lakh rupees.

Penalty.

5. (1) Notwithstanding anything contained in any other law for the time being in force, the onus of proving the innocence shall be on the accused and the sexually harassed woman shall have the right to lead evidence in rebuttal.

Burden of proof and trial in camera etc.

(2) The trial of an offence committed under this Act shall be held in camera if the harassed woman so desires.

(3) Notwithstanding anything contained in any other law for the time being in force, the case of a sexually harassed woman at a workplace shall be pleaded either by herself or with her consent by any women's organisation or the trade union of which she is a member.

6. (1) The appropriate Government shall as soon as may be set up adequate number of Complaint Committees in all its Ministries and Departments, Semi Government Organizations, Public Sector Enterprises, Banking and Financial Institutions, Trusts and local self bodies and in all the district Headquarters and Block levels for redressal of the complaints made by the sexually exploited and harassed working women at their workplaces.

Setting up of Complaint Committees.

(2) The Complaint Committees shall consist of such members and the Committee shall follow such procedure as may be prescribed.

Act to
supplement
other laws.

7. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with the subject matter of this Act.

Power to
make rules

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Half of the population of the nation is women who have been exploited for centuries. However, with the change of time there is awakening amongst the women and, today, in almost every field of economic activity, women form a good part of the workforce. As a result, the number of working women is increasing very fast. Women have now to work under the most disadvantageous service conditions in certain establishments and cases of their sexual exploitation are also increasing day by day. Working women are very often sexually harassed at the work places by their male employers, bosses, colleagues, and others but more often these cases are not reported by them for fear of social ostracism, family pressure or reprisal through threats and discriminatory treatment. As a result the working women often feel insecure at their workplaces. The Supreme Court of India has taken this issue very seriously. In the case of *Vishaka and Others vs. State of Rajasthan and others*, the Supreme Court has laid down norms and guidelines to be followed by employers or other responsible persons in the workplaces or other institutions to prevent or deter the commission of acts of sexual harassment as also to provide the procedures for resolution, settlement or prosecution of acts of sexual harassment by taking all steps required including setting up of Complaints Committees for redressal of the complaint made by the victim. The National Commission for Women has also taken up this issue very seriously. It has, however been found that the Complaint Committees have not been formed in a number of cases.

Though the Supreme Court judgement is there, no law however, has been enacted to deal exclusively with this issue, which is of vital importance for the working women throughout the country.

Hence this Bill.

SUSHMA SWARAJ.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for setting up of Complaint Committees. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees fifty crore may involve as recurring expenditure from the Consolidated Fund of India per annum.

No non-recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill gives power to the Central Government to make rules for carrying out the purposes of this Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

IV

BILL NO. XCIX OF 2006

A Bill to check and regulate the unsolicited direct marketing calls made by banks, non-banking financial institutions, cellular phone, pharmaceutical and insurance companies and companies manufacturing other high end consumer goods, on the mobile or landline telephone of an individual thereby violating the right to privacy, by establishing a Do-not Call Registry and preventing the companies or individual from disclosing customer's details to any other company or individual and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement

1. (1) This Act may be called the Direct Marketing Telephone Calls (Regulation) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "consent" means signing of a written document by an individual as a positive indication of the individual's intention to receive direct marketing telephone calls and includes acceptance in electronic form;

(c) "Do not call registry" means the registry established under section 4;

(d) "individual subscriber" means a subscriber to a telephone service which is publicly available;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "tele-density" means the number of telephones (both land line and mobile) in use for every hundred individuals living in a city;

(g) "telephone calls" includes short messaging service and multi messaging service;

(h) "Telecom Controller" means Telecom Controller appointed under section 6;

(i) "unsolicited" means any direct marketing telephone call to which an individual has not given his consent for receiving.

3. Subject to the provisions of this Act, no person shall make any unsolicited telephone calls to an individual subscriber for direct marketing purposes without his consent.

Prohibition of making unsolicited telephone calls.

4. (1) The Central Government shall, by notification in the Official Gazette, establish a Do Not Call Registry in every city of the country having a tele-density of twenty five which shall ensure that the telephone numbers of subscribers who do not want to receive unsolicited telephone calls are no longer available to organizations including charity and voluntary organizations for making direct marketing calls.

Establishment of Do Not Call Registry.

(2) Individual subscriber to any telephone service who does not wish to receive direct marketing calls may register their telephone numbers with the Do not Call Registry in such a manner as may be prescribed.

5. (1) The Central Government shall, by notification in the Official Gazette, appoint a Telecom Controller for each Do Not Call Registry to look after its functions.

Appointment of Telecom Controllers

(2) The terms and conditions of service of the Telecom Controller shall be such as may be prescribed.

(3) The appropriate Government shall provide such number of officers and staff as may be required for efficient functioning of the Telecom Controller.

(4) The procedure for appointment of the Telecom Controllers, their powers and functions shall be such as may be prescribed.

6. Any person who receives unsolicited direct marketing calls shall be entitled to compensation for any damage or distress caused by breach of any provision of this Act in such manner as may be prescribed.

Right to claim damages

7. The telephone numbers and other personal details of any individual subscriber shall not be disclosed by any individual or establishment to any other person or establishment.

Personal details of subscriber not to be disclosed.

8. The Central Government shall, after due appropriation made in this behalf, provide such sums of money as it may think fit for being utilized for the purposes of this Act.

Central Government to provide funds

Penalty.

9. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act shall be punishable with imprisonment for a term, which may extend to three years or with fine, which may extend to ten lakhs or with both.

Offence by companies.

10. Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

Explanation:—For the purpose of this section:—

(i) "company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Summary trial.

11. All offences under this Act shall be tried summarily in the manner prescribed for summary trial under the Code of Criminal Procedure Act, 1973.

2 of 1974

Power to remove difficulties.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficult:

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

Overriding effect.

13. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to unsolicited direct marketing calls.

Power to make rules.

14. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Of late, there has been a tremendous jump in the direct marketing sector. Every now and then, people are receiving unsolicited telephone calls from various banking companies, non-banking financial companies, cell phone operators, credit card companies, insurance companies and others offering various kinds of services and loans provided by their companies. Its impact can be seen more on the mobile phone users as their number has also multiplied to a large size overtaking the landline subscribers. These companies are obtaining the telephone numbers of the persons through illegal means and make all kinds of offers to the subscriber by calling him on the phone or sending SMS relating to their services which, at times, are quite irritating. These calls are assuming the proportion of a nuisance, as they disturb the subscribers day and night. Many a time a person is in meeting and all of a sudden his mobile rings with an offer to provide him life time free credit card or zero per cent interest loan. Though none of these things are free or interest free, the agents of these companies claim to be representatives of the bank or the company, etc. but actually are not employees of the bank or the company. They are often found to be direct marketing agents of the bank. Whenever a consumer complains about harassment or otherwise by such direct marketing agents, banks, etc. often refuse to accept any responsibility or even deny any relationship with these agents. The surprising fact remains how these agents are getting the telephone numbers of the subscribers. There is a nexus amongst the persons working in various companies and they are selling the subscribers' details to the other companies for a fixed price. These companies are supposed to keep the subscribers' details confidential instead of disclosing or selling it. These companies are in fact violating the right to privacy of the individual. Several countries in the world recognize the subscriber's right to privacy but the same has not received much attention in our country. As a result there are invasions of all kinds on privacy without much retaliation. The companies making unsolicited calls do so without the consent of the person by way of getting his telephone numbers through some undesirable means. There has to be a check on these unsolicited telephone calls. Though RBI has come out with some guidelines on these unsolicited telephone calls made for promotion of credit cards being offered by banks but the same remains to be unnoticed and not extended to other services.

In many countries, agencies have been created for this purpose and if the subscriber is registered with those agencies, no direct marketing calls/SMS/MMS can be made to that person. The same is required to be done in our country also. With this end in view, it has been proposed to establish a Do Not Call Registry in each city of the country having a teledensity of twenty five and no unsolicited direct marketing calls shall be made to those persons who would register themselves with this Registry. The Bill seeks to achieve the above objectives.

MAHENDRA MOHAN.

FINANCIAL MEMORANDUM

Clause 5 of the Bill empowers the appropriate Government to appoint Telecom Controllers, Officers and staff for looking after the functioning of the Do Not Call Registry. Clause 8 provides that Central Government shall make the funds available for being utilized for the purpose of this Act. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India to the tune of rupees twenty crore per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of a normal character.

V

BILL NO. XCII OF 2006

A Bill to provide for the appropriate rehabilitation of the oustees and more so of the poor villagers, dalits and tribals who have to vacate their ancestral houses and whose lands and immovable properties are acquired by the State for setting up multi-purpose inter-state river projects or for setting up large or big industrial enterprises and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement

1. (1) This Act may be called the Multi-Purpose Inter-State River Projects and Setting up of Large Enterprises (Rehabilitation of Ousteas) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "family" includes parents and their children.

65 of 1951

(c) "industry" shall have the meaning assigned to the term in the Industries (Development and Regulation) act, 1951;

(d) "Oustee" means any person, whose land has been acquired by the appropriate Government and who has to vacate his house along with his family with his belongings and shift to other place to enable the Government to construct a multi purpose Inter-State river project or to set up a big industry at the acquired land;

(e) "prescribed" means prescribed by rules made under this Act;

(f) "project" includes multi-purpose dam or reservoir constructed over a river passing through more than one State for the purposes of generating power, prevention of floods, irrigation and drinking water etc.;

Order of 1950

(g) "tribal" means people belonging to tribes which have been declared as Scheduled Tribes in the Constitution (Scheduled Tribes) Order, 1950.

3. (1) Notwithstanding anything contained in any other law for the time being in force, every project shall be formulated by the Central Government in consultation with the Government of the States concerned with the project.

Central Government to formulate, monitor and finance the project.

(2) The project formulated under sub-section (1) shall be implemented and monitored by the Central Government in such manner as may be prescribed.

(3) The entire cost of the project shall be borne by the Central Government.

(4) The required land shall be acquired by the appropriate Government, by notification in the Gazette, in such manner as may be prescribed.

4. (1) The Central Government shall, in consultation with the Governments of the States concerned with the project or the industry as the case may be, formulate a comprehensive scheme for the appropriate rehabilitation of the oustees by providing them compensation, dwelling houses, agricultural land and such other infrastructure which is necessary for their proper rehabilitation.

Rehabilitation Scheme for the oustees.

(2) While formulating the rehabilitation scheme under sub-section (1) special care shall be taken of the *dalits*, farmers, women and children and more so of the tribals keeping in view the requirements of the environment in which they are habitual of living.

(3) In particular and without prejudice to the generality of the foregoing powers the rehabilitation scheme shall also provide for,—

(a) giving a built up dwelling house to every oustee by the appropriate Government with such facilities as may be prescribed;

(b) giving agricultural land to every oustee farmer or other person whose land has been acquired for the industry or the project as the case may be, by the appropriate Government acquiring such land in the following manner:—

(i) if the land acquired was irrigated land, similar land which shall be ten per cent more than the total area of the acquired land;

(ii) if the land acquired was not irrigated one then similar land which shall be twenty per cent more than the total area of the acquired land and if the alternative land is irrigated land then land equivalent to the total area of the acquired land.

(4) Prior to administering the rehabilitation scheme it shall be the duty of the appropriate Government to obtain from the likely oustees of a site chosen for the project, their choice as to whether they want to be rehabilitated within the State or District or elsewhere as proposed by the appropriate Government and shall, as far as possible rehabilitate the oustees as per the option given by them.

Employment
provision for
the oustees.

5. The appropriate Government shall provide appropriate employment to at least one eligible member of every family ousted for the project or industry, as the case may be, as per his calibre and qualifications in such manner as may be prescribed.

Educational
and other
facilities.

6. The appropriate Government shall provide adequate number of schools and other institutions including technical and vocational ones, medical and such other facilities as may be prescribed in and around the areas where oustees have been and proposed to be rehabilitated.

Central
Government
to provide
funds.

7. The Central Government shall, after due appropriation made by Parliament by law made in this behalf, provide adequate funds for carrying out the purposes of this act.

Act to have
overriding
effect

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Savings.

9. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make
rules

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Recently, the issue of rehabilitation of oustees of Sardar Sarovar Pariyojana on Narmada river and those of a multinational Joint Venture Company in Orissa was in the limelight through the electronic and print media due to hunger strike by an activist of the Narmada Bachao Andolan and by the Chief Minister of Gujarat in case of Sardar Sarovar Pariyojana and killing of many Tribals in Police firing in Orissa who were demanding appropriate rehabilitation of oustees and more compensation respectively. In this context, it is necessary for the overall development of the country in general and specific areas or region in particular to formulate and implement multi purpose Inter-State River Projects or setting up of big industrial ventures. The multi purpose Inter State River Projects give precious electricity and water in abundance which may be utilized for irrigating millions of hectares of dry land which will boost agricultural production, execute drinking water schemes to quench the thirst of crores of people and millions of households and electricity will benefit the industrial and households sectors leading to the prosperity of the nation. Setting up of big industries will create more employment opportunities and lead to economic growth of the country. But, at the same time, thousands of families and persons living in the vicinity of the proposed river project or the industry have to leave their ancestral native place to facilitate the execution of the project or the industry. Their rehabilitation becomes a necessity by keeping a balance between the urgency and emotional attachment or bond of the oustees with the place or site because people generally are not willing to leave their houses and hamlets and some times there are complaints and resentment against rehabilitation schemes which are often defective. Sometimes the villages and hamlets of the Tribals situated in forest areas also come in the vicinity of the project. Their rehabilitation becomes problematic because of their habit of living in a particular environment and atmosphere. Due to these reasons agitations were galore against the Sardar Sarovar Pariyojana or Tehri Dam Pariyojana and other projects. The issue had even gone to the Supreme Court of India which observed that it is essential to strike a balance between development and rehabilitation when such a vast project was being carried out and a large number of people were affected. Although all persons cannot be satisfied but rehabilitation has to be reasonable. On agitations the Supreme Court was of the opinion that parties should stop the agitational path in such matter, otherwise it would be a threat to the unity and integrity of the country. However, since there is no law to deal with these important issues the matter, many a time linger on causing avoidable losses to the nation.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN.

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides that appropriate Government shall provide adequate number of schools and other institutions in and around areas where oustees have been rehabilitated. Clause 7 makes it obligatory for the Central Government to provide adequate funds for carrying out the purposes of the Bill. Since the expenditure will be project based it is difficult to make an estimate about the likely expenditure which may involve on the Consolidated Fund of India in case the Bill is enacted and brought into force. The Central Government will assess the likely expenditure on each project and get it approved by the Parliament.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation or legislative power is of normal character.

VI

BILL NO. LXXXVII OF 2006

A Bill to protect the interests of farmers by providing special facilities to improve their standard of living, removal of indebtedness, remunerative prices for their produce, increasing the yield by improving farming practices, techniques and allied occupations, for introducing compulsory market intervention in case of bumper crops, compulsory insurance of crops, livestock, old age allowance and welfare measures to be undertaken by the state and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India is as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Farmers (Protection and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "agricultural produce" includes wheat, paddy, coarse cereals like jowar, bajra, millet, maize, barley, madwa, gram, pulses, sugarcane, cotton, oilseed, vegetables, spices, jute, coconut, all types of fruits including areca nuts and such other agricultural commodities which may be notified from time to time by the Central Government in the Official Gazette and also includes seed as defined in the Seeds Act, 1966;

54 of 1966

(b) "appropriate Government" means in the case of a State the Government of that state and in other cases, the Central Government;

(c) "bumper crop" means excess yield of any agriculture produce when the return to the farmer is not reasonable as compared to its cost of production;

(d) "crop insurance" means insurance against loss of crop due to natural calamity and also includes loss suffered by a farmer on account of bumper crop;

(e) "farmer" means a person who owns land and cultivates or causes it to be cultivated thereon for agricultural or horticultural purposes and includes big, middle, small and marginal farmers as identified by the Union Planning Commission;

(f) "natural calamity" includes calamity due to drought, flood, hail, wind, cyclone, super cyclone, Tsunami, storm, frost, winter kill, lightening, fire excessive or heavy rains, snow, wild life, insect infestation, plant disease and such other causes as may be prescribed;

(g) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, as soon as may be, formulate a long term action plan for the protection and welfare of the farmers throughout the country and in particular for the farmers of drought prone, coastal and other calamity prone areas and regions of the country as may be necessary, incidental or conducive for such action plan.

Long term action plan for the welfare of farmers.

(2) In particular and without prejudice to the generality of the foregoing provisions such action plan may include—

(a) comprehensive crop and livestock insurance scheme so as to compensate the farmer against losses due to natural calamity or on account of bumper crop;

(b) compulsory market intervention scheme for bumper crops to procure or arrange to procure excess crop of the farmer;

(c) interim relief to farmers affected by natural calamity;

(d) writing off loans and interest accrued on farmers if crops are affected by natural calamity consecutively for two years;

(e) easy credit facility with nominal interest thereon through commercial and cooperative banks;

(f) institutional mechanism for efficient marketing and export of farm produce; and

(g) welfare schemes including old age pension scheme for farmers who have attained the age of sixty years or more.

4. Notwithstanding anything contained in any other law for the time being in force, it shall be the duty of the appropriate Government to,—

Facilities to farmers.

(a) consistently monitor the trends of production of agricultural produce right from the beginning of every sowing season of every crop so as to estimate the likely production, local consumption, purchases by Government agencies, surplus and such other things;

(b) in case of bumper crops, make transportation arrangements at subsidized rates to carry the surplus produce to identified areas of State where such produce is likely to be consumed and make necessary marketing and yard facilities for such bumper crop;

(c) ensure that farmer do not resort to distress sale of their agricultural produce and compulsorily extend market intervention through appropriate agencies in case of bumper crops;

(d) study the requirements of the farmers for promoting agriculture including agricultural education, research and training and establish well equipped modern Krishi Vigyan Kendras and agricultural universities at conspicuous places in the country;

(e) establish agricultural farms in every block which shall ensure timely and adequate supply of quality seeds and saplings to farmers;

(f) establish well equipped and modern veterinary hospitals in every block to assist farmers in animal husbandry;

(g) promote agro based industries such as food processing, dairy, poultry, rearing of animals, piggery, etc. to enhance farm income;

(h) promote the technique of group farming to encourage better farm management and farming techniques with a view to making agriculture economically viable;

(i) promote cultivation of vegetables, spices, floriculture, pisciculture, poultry farming, piggery, sericulture, bee keeping, horticulture in the suitable areas for supplementing the income of farmers;

(j) promote organic farming, use of natural manure, use of biomass for energy production, water harvesting and conservation techniques for the benefit of farmers;

(k) provide such other facilities as may be prescribed.

Miscellaneous provisions.

5. The appropriate Government shall provide to every farmer—

(a) free of cost medicare;

(b) free of cost, education to his children including technical, medical and vocational;

(c) easy institutional loans to remove indebtedness due to loans from moneylenders on exorbitant rate of interest;

(d) adequate compensation in case of loss of crop due to natural calamity, disease or pest attack, as the case may be;

(e) adequate compensation of not less than four lakh rupees to the dependents of a farmer in such manner as may be prescribed who takes the extreme step of committing suicide;

(f) adequate old age pension which is sufficient to lead a dignified life; and

(g) such other protective measures as may be prescribed.

Central Government to provide funds.

6. The Central Government shall after due appropriation made by Parliament by law in this behalf provide, the requisite funds for carrying out the purposes of this Act.

Power to remove difficulties.

7. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, not inconsistent with the provisions of this Act, remove the difficulty:

Provided that no such order shall be made after the expiry of the period of two years from the commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before each House of Parliament.

Act to have overriding effect

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force dealing with farmers.

Power to make rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Ours is predominantly an agrarian country because agriculture is the main occupation or means of dependence of more than seventy per cent of our population. The farmers who not only constitute majority of our population but, in fact, are the backbone of our economy because agriculture is the biggest economic sector of our nation which contributes extensively to the gross domestic product (GDP), provides employment and livelihood to the maximum number of people. Agriculture sustains the country with food security and provides largest share of raw material to our industrial sector. Unfortunately, this vital sector of our economy is badly neglected and so are the farmers who are engaged in agriculture. As a result there are spate of suicides being committed by poor and indebted farmers in various parts of the country particularly in Maharashtra, Andhra Pradesh, Karnataka, Kerala, Uttar Pradesh, Madhya Pradesh, Punjab, Haryana, etc. The farmers are highly exposed to the vagaries of nature. Natural calamities like flood, drought, heavy rains, cyclones or super cyclone, Tsunami, hail, wind, storm, frost, winter kill, lightening, fire, snow, wild life, insect infestation, plant diseases and vagaries of weather often reduce them to a state of extreme distress. Failure to get remunerative prices for the crops more so when bumper crops are grown and the shortcomings and the irregularities of the state procuring agencies also add to the distress of the poor farmers. Whenever there is a natural calamity, the state and the central governments under *ad hoc* measures spend crores of rupees every year in compensating the affected farmers but such *ad hoc* measures are inadequate which fail to instill any sense of confidence in the farmers. Therefore, the need is felt to provide adequate security and protection to the farmers so far neglected which can be done through comprehensive crop and livestock insurance scheme and other schemes for the protection, benefit and welfare of the helpless farmers of the country.

Hence this Bill.

E.M. SUDARSANA NATCHIAPPAN.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for certain facilities to be given to the farmers. Clause 5 provides for payment of certain compensations, free of cost medicare, education to children, old age pensions etc. to the farmers. Clause 6 makes it obligatory for the Central Government to provide adequate funds for carrying out the purposes of the Bill. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees ten thousand crores may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees one thousand crores may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

VII

BILL NO. CIII OF 2006

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-seventh Year of the Republic of India :—

Short title and
commencement

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force at once.

Insertion of
new article
19A

2. After article 19 of the Constitution the following article shall be inserted namely:—

Right to
Information.

"19A. Every citizen shall have the right to seek information from the record maintained by the Government.

Explanation: In this article unless the context otherwise requires,—

(a) "Government" includes any body or non-government organisation by whatever name called, owned, controlled or substantially financed directly or indirectly by funds provided by the Central or the State Government; as the case may be.

(b) "record" includes any document, manuscript or file or any microfilm, microfiche or facsimile copy of the document or any reproduction of images embodied in such microfilm (whether enlarged or not) and any other material produced by a computer or any other device.

(c) "right to seek information" means and includes:—

- (i) inspection of work, documents, records;
- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) taking certified samples or material; and
- (iv) obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

STATEMENT OF OBJECTS AND REASONS

The Right to Information Act, 2005, enacted by the Parliament has been well received throughout the country. Citizens in general and non-government organizations in particular, are taking full benefits of the provisions contained in the historic legislation.

However, authorities responsible to make the law effectively operational for the benefit of the society are not fully co-operating with the applicants, partly due to ignorance and partly on account of arrogance.

In order to make everyone realize the relevance of the Right to Information, it is essential that, besides enacting a legislation on the subject, the same is included in the Constitution of India as a Fundamental Right.

This will help the applicants to seek constitutional remedy in case the appellate authorities under the Act, are unduly influenced by any quarters, whatsoever.

Some of the countries adopting democratic form of government, in recent years, have included Right to Information Act in their respective Constitutions.

Further, on account of the Economic Policy of liberalization, a large number of activities presently undertaken by the government are likely to be undertaken by non-government organizations, directly or indirectly financed by the government. If Right to Information is made a Fundamental Right, getting information from such organizations will be easier and, persons responsible to give information may not put forth pretexts to refuse information.

Hence the Bill.

SHANTARAM LAXMAN NAIK.

VIII

BILL NO. LXCVI OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India.

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force, at once.

2. In article 102 of the Constitution, in clause (1), for sub-clause (a) the following sub-clause shall be substituted, namely:—

(a) if he holds any office, under the Government of India or the Government of any State, which is declared by Parliament, by law, as an “office of profit”;

3. In article 191 of the Constitution, in clause (1), for sub-clause (a), the following sub-clause shall be substituted, namely:—

(a) if he holds any office, under the Government of India or the Government of any State, which is declared by Parliament or State Legislature, by law, as an “office of profit”.

Short title
and
commence-
ment.

Amendment
of article
102.

Amendment
of article
191.

STATEMENT OF OBJECTS AND REASONS

Experience has shown that article 102 and article 191 of the Constitution of India which disqualify Members of Parliament and State Assemblies in case they hold any office of profit, have not succeeded to bring in any purity in politics, which appears to be the objective with which the two articles were inserted.

The said articles neither define the term "Office" nor the term "Profit", as a result of which, what constitutes the office of profit has always remained a mystery.

Plethora of decisions of the Supreme Court and the High Courts have also not being able to give any finality to the two concepts.

Parliament, as also, State Legislatures have enacted legislations incorporating certain posts to take them away from the purview of the concept of "Office of Profit".

These laws contain lists of corporations/boards, besides other constitutional posts, which the legislations have sought to take out of the purview of the term "office of profit" so as to exempt the holders thereof from being disqualified.

Additions to the lists of exemptions, whether by Parliament or by State Legislatures, have met with public criticism on account of misconception regarding "Office of Profit".

To put an end to this legal chaos, the present Bill seeks to amend article 102 and 191 of the Constitution of India, which, as amended will provide for disqualification of members of Parliament or State Legislatures only if they hold posts declared specifically as posts constituting "Office of Profit" and not *vice versa*.

The proposed amendment is essential to make the law simple and devoid of any legal riddles.

SHANTARAM LAXMAN NAIK.

IX

BILL NO. CIX OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India.

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force at once.

2. In article 243G of the Constitution,—

(a) for the words “may contain provisions for the devolution of powers and responsibilities upon Panchayats”, the words “shall contain provisions for the devolution of powers and responsibilities upon Panchayats” shall be substituted.

(b) In sub-clause (b) after the words “Eleventh Schedule” the words “by the year 2008” shall be inserted.

3. In article 243W of the Constitution,—

(a) for the words “may contain provisions for the devolution of powers and responsibilities upon Municipalities”, the words “shall contain provisions for the devolution of powers and responsibilities upon Municipalities,” shall be substituted.

(b) In sub-clause (b) after the words “Twelfth Schedule” the words “by the year 2008” shall be inserted.

Short title
and
commence-
ment.

Amendment
of article
243G.

Amendment
of article
243W.

STATEMENT OF OBJECTS AND REASONS

After the 73rd and 74th constitutional amendments came into force, most of the states enacted their respective legislations governing Panchayats and Municipal Bodies, in line with the Constitutional amendments.

While some states have enumerated the powers to be exercised by Panchayats, by enumerating the subjects mentioned in the XIth schedule of the Constitution in the respective legislations and have allotted them to the Zilla, Tehsil and Village Panchayats and, similarly, the State Governments have allotted the subjects mentioned in the XIIth schedule to the various types of municipal bodies. These enumerations are rather cosmetic in nature and necessary notifications, to actually allot these subjects to the respective Panchayats and Municipal bodies have not been issued.

It is in this context, that the present Bill seeks to make devolution of powers constitutionally mandatory by substituting the word "may" by the word "shall", in the respective articles.

Some State Governments have given undertakings for the devolution of such powers by signing Memoranda of Understanding with the Government of India. However, a firm constitutional requirement is the need of the hour if the dream of former Prime Minister Late Shri Rajiv Gandhi, who was inspired by the ideals of Mahatma Gandhi of "Gram Rajya", is to be achieved.

Hence this Bill.

SHANTARAM LAXMAN NAIK.

X**BILL NO. XCIV OF 2006***A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Fifty-seventh year of the Republic of India as follows :—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

Short title and
commencement

(2) It shall come into force with immediate effect.

2. After article 21A of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
21B

“21B. (1) Every citizen shall have the right to adequate potable water.

Right to
potable water

(2) The State shall ensure that every citizen in the country is provided potable water as per his requirement within three years of the commencement of this Constitution (Amendment) Act.”

STATEMENT OF OBJECTS AND REASONS

After air, water is the primary requirement of life because it is water that sustains life. The whole nature, flora, fauna and the creatures are alive and conscious because of water. The importance of water, therefore, stands supreme and is even more than food itself. For the last few years, water pollution is continuously on the rise in many places in the country. This is a very serious and deplorable situation that citizens of the country, at many places, in various regions of the country are compelled to drink polluted, muddy or fluoride contaminated water even though there is a risk of many kinds of diseases being contracted by drinking such water. But as no person or animal can survive without water there is no option but to drink whatever type of water is available in their locality and they become so helpless that they are ready to take all risks of contracting diseases from it when they feel thirsty. It is for the safety and health of these vulnerable people that pure and clean drinking water should be made available for the citizens everywhere, in every region. It is, therefore, imperative to bring necessary amendments to the constitution making it mandatory for the State to provide every citizen clean and safe drinking water so that people of the country are secure from risk of several diseases and they may lead a healthy and long life. There is a need to implement this provision on priority.

Hence this Bill.

PRABHA THAKUR.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that the State shall provide potable water to every citizen in the country within three years of the commencement of this enactment. This is definitely going to involve expenditure from the Consolidated Fund of India. However, in the absence of assessment of requirement of funds and the ratio of sharing the same between the Centre and the States, it is difficult at this stage to estimate the amount likely to be spent from the Consolidated Fund of India.

XI

BILL NO. XCIII OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

2. After article 275 of the Constitution, the following article shall be inserted, namely:—

"275A. Notwithstanding anything in article 275 of the Constitution, there shall be paid out of the Consolidated Fund of India as grants-in-aid to the revenues of the State of Rajasthan such recurring sums as may be considered necessary for the special development of the State and for promotion of infrastructure, generation of adequate employment opportunities and investment in the said state particularly the arid and sandy areas:

Provided that such grants-in-aid shall be in addition to the annual allocations made by the Planning Commission to the State of Rajasthan and all other schemes of assistance from the Government of India:

Short title,
extent and
commencement.

Insertion of
new article
275A.

Grants from
the Union to
the State of
Rajasthan.

Provided further that the grants-in-aid referred to under this article may be reviewed on the expiry of every five years from the commencement of this Constitution (Amendment) Act."

Insertion of new
article 371J

3. After article 371-I of the Constitution, the following article shall be inserted, namely:—

Special
provision
with respect
to State of
Rajasthan

"371 J. The President may by order made with respect to the State of Rajasthan having regard to requirement of the area as a whole for development, employment opportunities and facilities for the people of different parts of the State provide for,—

- (i) a separate Board for development of the State;
- (ii) integrated scheme for potable water and irrigation in the arid and sandy areas of the State; and
- (iii) an arrangement providing adequate facilities for technical education and vocational training and adequate opportunities for employment in services under the control of State Government particularly with respect to arid and sandy areas."

STATEMENT OF OBJECTS AND REASONS

Geographically, Rajasthan is the largest State in the country. Major portion of the State is arid and sandy sticken with acute backwardness. The State has been facing drought for past several years. As a result there is not enough development of infrastructure and for the generation of employment there has been least investment in the State. There is no adequate infrastructure like irrigation, road, power, railway, etc. in the absence of which it is not possible to accelerate the growth and development of the arid and sandy areas. Besides, there is acute shortage of drinking water in the State.

The money granted by the Central Government has not been adequate to meet the expenditure with regard to various developmental schemes. Being one of the largest States speedy developments of it is in the interest of the country. Therefore, it has been proposed to amend the Constitution for a special grants-in-aid and certain special provisions for the State of Rajasthan.

Hence this Bill.

PRABHA THAKUR.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for the payment of such grants-in-aid of the revenues of Rajasthan as may be considered necessary for the special development of the State and to promote infrastructure so as to generate adequate employment opportunities and investment in the State. Clause 3 provides for various schemes for development of the State of Rajasthan by way of Development Board in the area of potable water, irrigation, education, training etc. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India.

However, without an appraisal of the position of the State, the amount of investment required cannot be estimated at this juncture.

XII

BILL No. XCV OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and
commence-
ment

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

Insertion of
new article
48AA.

2. After article 48A of the Constitution, the following article shall be inserted, namely:—

Overall
development
of agricultural
sector.

48AA. The State shall take steps, by suitable legislation or in any other way as it may deem necessary and expedient to do so, to,—

(a) spend an adequate percentage of its GDP (Gross Domestic Product) on the promotion of agriculture;

(b) declare agriculture as an industry and extend all the facilities enjoyed by industrial sector in the country to it;

(c) make agriculture export oriented;

(d) ensure remunerative prices for agriculture produce of the farmers and automatically extend compulsory market intervention whenever there is bumper crop of any agricultural commodity including foodgrains, pulses, fruits and vegetables;

(e) ensure that farmers get timely loans from the banks and financial institutions to save them from moneylenders;

(f) save farmers from taking extreme step of committing suicide and to extend welfare measures to the families of those who committed suicide and also to all the families of the farmers;

(g) ensure rapid growth of agriculture in drought prone, desert and arid areas by implementing watershed programme;

(h) programme revival of traditional water storage bodies and rain water harvesting technologies in a big way;

(i) give agricultural workers all those benefits which are available to industrial workers;

(j) raise the standard of living of agricultural workers and their purchasing capacity; and

(k) introduce 'agriculture' as a subject of study at all levels of education.

Explanation:— For the purposes of this article, the expression 'agriculture' includes horticulture, sericulture, poultry, rearing of livestock and such other operations which are based on agriculture.

STATEMENT OF OBJECTS AND REASONS

Ours is primarily an agriculture country because more than 70 per cent of its population is in one way or the other, dependent on agriculture as cultivators, agricultural workers, small and tiny entrepreneurs rearers and so on so forth. The farming community through green revolutions has made our nation self sufficient in food grains but their lot is far from satisfactory. On the other hand most of the industrial products are based on agriculture because their raw materials come from agriculture. But there is no comparison between the agricultural and industrial sectors. The margin of profit and increase in industrial production is manifold whereas it is very meagre in agriculture. This has brought prosperity in the industrial sector whereas there is poverty amongst the farmers who are exploited and debt ridden. Their inability to pay back their debts is leading them to take the extreme step of committing suicide. In fact, agriculture despite being the backbone of our economy has consistently been neglected as meagre GDP is spent on the agriculture. The agriculture is mostly dependent on rains as irrigation capability has not increased to desired levels. Hence, the development of agriculture has become very crucial for our nation. The industrial sector must admit agriculture as a supporting partner and agriculture must be given the status of Industry and all facilities should be extended to it, which are enjoyed by Industrial sector. The agricultural workers should also be at par with industrial workers with Price Index based salaries and bargaining power by forming trade unions and organized efforts so that they get a fair deal. It is in the national interest that the standard of living of farmers, agricultural workers is raised to the desired levels by increasing their purchasing capacity, which is possible only through rapid growth of agriculture.

Hence this Bill.

SANTOSH BAGRODIA.

XIII

BILL No. XCVIII OF 2006

A Bill to provide for the integrated development of the desert, drought prone and backward areas which are poverty stricken, underdeveloped and lag behind in the economic, social, educational, infrastructural and industrial fields particularly in the States of Rajasthan, Gujarat, Orissa, Bihar, Jharkhand, Andhra Pradesh, Chhattisgarh, Maharashtra, etc. by establishing an autonomous Central Authority with the mandate of assuring speedy development of such areas and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Desert, Drought Prone and Backward Areas (Integrated Development) Act, 2006.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government;

(b) "authority" means the Desert, Drought Prone and Backward Areas Development Authority established under section 4;

(c) "backward areas" include the desert and drought prone areas with very low or scanty rainfall and the areas which are economically, industrially, educationally and socially lagging behind from the rest of the country and so declared by Central Government by notification in the Official Gazette;

(d) "prescribed" means prescribed by rules made under this Act.

Long term
national
policy for
backward
areas.

3. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, formulate a long term national policy for the integrated development of the backward areas and in particular those areas which are desert and drought prone which shall be implemented by the Authority.

(2) The appropriate Government shall, by notification in the Official Gazette, declare such areas within its territorial jurisdiction, which in its opinion are backward and require priority attention for integrated development and furnish the information to the Central Government as well as to the Authority.

Establishment
of the Desert,
Drought
Prone and
Backward
Areas
Development
Authority

4. (1) The Central Government shall, as soon as may be, by notification in the Official Gazette, establish an Authority to be known as the Desert, Drought Prone and Backward Areas Development Authority for carrying out the purposes of this Act.

(2) The Authority shall be a body corporate, by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property both movable and immovable and to contract and shall by the said name sue and be sued.

(3) The headquarter of the Authority shall be at Jaipur in the State of Rajasthan and the Authority may, with the consent of the appropriate Government establish subordinate offices at other places in the country.

Composition
of the
Authority.

5. (1) The Authority shall consist of the following members namely:—

(a) the Prime Minister who shall be the *ex officio* chairperson of the Authority;

(b) two vice-chairpersons,—

(i) the Deputy Chairman of the Planning Commission; and

(ii) to be appointed by the Central Government from amongst the members of the Authority in such manner as may be prescribed;

(c) five members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha to be nominated by the Presiding Officers of the respective Houses;

(d) twelve members to be appointed by the Central Government representing the Planning Commission and Ministries or Departments of Agriculture, Agro and Rural Industries, Rural Development, Industry, Finance, Telecommunications, Railways, Road Transport and Highways, Human Resources Development, Power and Water Resources of the Central Government; and

(e) not more than five members to be appointed by the Central Government by rotation in the alphabetical order to represent the Governments of the States having most of the backward areas.

(2) The Authority shall follow such procedure for holding its meetings and the quorum for such meetings shall be such as may be prescribed.

(3) The Authority shall have a Secretariat consisting of such officers, employees and establishment with such conditions of service, emoluments and perks as may be prescribed and determined from time to time for the efficient functioning of the Secretariat of the Authority.

6. The Central Government shall provide, from time to time, after due appropriation made by Parliament, by law, in this behalf, adequate funds for carrying out the purposes of this Act and for the administrative expenses of the Authority.

Funds of the Authority.

7. (1) It shall be the duty of the Authority to implement the long term national policy formulated under this Act for backward areas and ensure integrated development of the backward areas by undertaking such special steps as it may deem necessary and expedient to do so for the overall development of such areas.

Authority to implement long term national policy for backward areas and ensure integrated development of such areas.

(2) Without prejudice to the generality of the foregoing provisions the Authority shall initiate measures for the integrated development particularly to ensure industrial growth with immunity of investments and various concessions by providing good and viable infrastructure pertaining to roads and highways network, railways, communication network, agriculture and agro industries, irrigation facilities through watershed projects, constructing wells, bore wells, canals, ponds and other traditional water bodies, power projects based on thermal, solar, hydal and wind energies, forests, promoting livestock rearing, poultry, piggery, orchards, cooperatives, cottage and village industries, health services, family welfare, educational facilities, network of PDS, tourism, vocational avenues and such other activities as the Authority may deem necessary for the integrated development of backward areas.

(3) The Authority in particular shall initiate measures to provide safe drinking water in abundance to the people of backward areas of the country.

8. It shall be the duty of the appropriate Government to provide requisite co-operation to the Authority in undertaking its development work in the backward areas within the territorial jurisdiction of such Government.

Appropriate Government to cooperate with Authority.

9. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Power to remove difficulty.

10. The Authority shall submit an annual report, in such form and in such manner, as may be prescribed, of its activities of development undertaken for the purposes of this Act to the President of India who shall cause the Report to be laid before both the Houses of Parliament along with action taken thereon by the Central Government as soon as it is received.

Annual Report of the Authority.

11. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Act to Supplement other laws.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Ours is a vast country. There are desert areas, which are prone to famines and droughts. The rainfall in such areas is generally very scanty resulting in severe shortage of drinking water. Such areas are mostly in Rajasthan and Gujarat where even drinking water is a luxury. Most of these areas are in rural and tribal belts where people are poverty stricken, debt ridden and do not have any means of employment as there are no industries and agriculture is not dependable as it is affected by the vagaries of monsoon. Such areas are chronically backward in our country. In the eastern region, vast areas of Orissa, Bihar, Jharkhand, West Bengal, Eastern U.P.; entire north-eastern region; in the Central India Chhattisgarh, Madhya Pradesh; in the western parts Vidarbha, Marathwada, Saurashtra, Kutchh desert and large parts of Rajasthan; in Southern parts Telangana, Mehboob Nagar, Rayalseema in Andhra Pradesh and areas in other Southern States are still most backward. It is really a matter of concern that even after more than five decades of Independence and implementation of nearly ten five year plans, these areas are still underdeveloped, backward and afflicted with extreme poverty, hunger and sufferings. Due to consistent neglect and apathy of the Central and State Governments these areas are backward. No industries have come up in these areas in the absence of requisite infrastructure. The agriculture is in shambles; rainwater is not harvested and traditional water bodies have vanished which has turned these areas into drought prone and famine prone. The backwardness and non-development of such areas has given rise to demand for creation of new States like Vidarbha, Gorkhaland, Telangana, Harit Pradesh, Bodoland, Bundelkhand, etc. as it is thought that by creating new States, the backwardness of the areas can be removed.

Hence, it has become necessary to develop such desert, drought prone and backward areas of the country for which special efforts have to be made through long term action plan. It is felt that an autonomous Authority should be created to implement the action plan and integrated development of such areas. This will be in the larger interest of our nation.

Hence this Bill.

SANTOSH BAGRODIA.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of the Desert, Drought Prone and Backward Areas Development Authority. Clause 6 makes it mandatory for the Central Government to provide adequate funds for the purposes of the Bill. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. The actual requirement cannot be assessed at this juncture but it is estimated that a sum of rupees ten thousand crore may involve as recurring expenditure per annum.

Non-recurring expenditure to the tune of five thousand crore may also involve.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIV

BILL No. XCVII OF 2006

A Bill to provide for welfare of women by providing fund and creating employment opportunities and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Women Welfare Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a state, the Government of that State in other cases the Central Government;

(b) "fund" means Women Welfare Fund set up under Section 3;

(c) "prescribed" means prescribed by rules made under this Act;

3. (1) The Central Government shall by notification in the Official Gazette set up a Fund to be known as Women Welfare Fund for the purposes of taking welfare measures for women.

Women
Welfare Fund.

(2) The Fund shall consist of contributions by Central Government and State governments in such ratio as may be prescribed and donations received from organisations and individuals.

Reservation
of jobs in
Central
Government.
Appropriate
Government
to undertake
Welfare
Measures for
Women

4. The Central Government shall reserve at least thirty-three per cent of jobs for women in all Central Government Services and organisations under its control.

5. The appropriate Government shall,—

(i) set up such number of women employment centres in every district as may be prescribed to provide assistance to women for employment/self employment;

(ii) reserve land or housing sites for women;

(iii) provide free health care facilities and maternity benefits upto first two children;

(iv) set up women hostels wherein all facilities shall be provided free of cost;

(v) pay sustenance allowance or old age pension to women who are destitute or widows and having no source of regular income;

(vi) provide free training to women for taking up employment or self employment;

(vii) provide scholarships to girl students; and

(viii) reserve at least thirty per cent of seats for women in all educational institutions including higher professional and technical institutions.

Central
Government to
provide funds
for special
Courts

6. The Central Government shall provide funds to the State governments for setting up of special courts for women in every district.

Central
Government
to ensure loan
to women.

7. The Central Government shall ensure that every commercial bank, including a private and foreign bank provide loans to women at the rate of five per cent simple interest for setting up self employment units.

Power to
make rules.

8. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Women constitute fifty per cent of the population in the country. Though sixty years have passed since independence, yet there has been no improvement in the condition of women. Several efforts taken by the Government have yielded some results, yet much has to be done to improve their lot.

The women do not have ample access to schools or employment opportunities, only a concrete reservation system in educational institutions or government jobs or special employment or self employment opportunities will help them.

Crimes against women are increasing and it takes very long for disposal of cases. Special courts can only help quick disposal of cases.

There is no social security for women in distress. The Government should make some provision for them.

Therefore, it is proposed to bring a comprehensive legislation for women welfare.

Hence this Bill.

SYEDA ANWARA TAIMUR.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides the setting up of Women Welfare Fund contributions by Central Government and other sources. Clause 5 provides for setting up of employment centres, reservation of land and providing hostels, pensions, scholarships, etc. to women by the appropriate government. Clause 6 of the Bill contains the provision for setting up of special courts in every district by the Central Government.

It is likely to involve a recurring expenditure of about rupees ten thousand crore per annum and rupees two thousand crore by way of non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XV

BILL NO. CVI OF 2006

A Bill to provide for equal pay to women workers and their welfare and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment

1. (1) This Act may be called the Women Workers (Equal Pay and Welfare) Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "women worker" means a woman worker engaged in any shop, establishment, industry, factory or agricultural operations or any other work where physical labour is required.

3. Notwithstanding anything contained in any other law for the time being in force, every woman worker shall be paid equal pay for equal work performed by her as compared to a male worker. Equal pay for equal work.
4. Every person who is the owner or the in-charge of any establishment, industry, factory or activity, where woman workers are engaged shall provide the following facilities for such workers at the place of work:— Facilities to be provided to the women by employer.
- (i) Creche including mobile creche facilities;
 - (ii) rest rooms;
 - (iii) separate toilets;
 - (iv) drinking water; and
 - (v) health care facilities.
5. Every woman worker shall be entitled to half an hour rest after every three hours of work performed by her with lunch break for one hour. Mandatory rest to women workers.
6. The appropriate Government shall appoint inspectors to inspect the facilities provided by employers to women workers at work place and ensure compliance of the provisions of this Act. Appointment of Inspectors.
7. Whoever, contravenes the provisions of,— Penalty.
- (i) section 3 shall be punishable with fine which may extend to rupees five lakhs and the licence of such employer or the establishments shall also be cancelled.
 - (ii) sections 4 and 5, shall be punishable with fine which may extend to rupees ten lakhs.
8. The Provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to equal pay for equal work. Overriding effect of the Act.
9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

It has been observed that women workers are not paid equal wages even for the same proportion of work done by them as compared to their male counterparts. In actual practice they are given less wages though, at times, they are asked to acknowledge the receipt of full wages. Though the Equal Remuneration Act is in place, it is not complied with.

Moreover, women workers are not getting adequate facilities at their work places. At some places, there is no toilets or drinking water facilities for them. The infants of these workers have to be taken care of but there are no creche facilities. There is no proper health facilities or rest rooms for women workers. Due to biological reasons, women workers have to take rest after performing work for some period, say, three hours.

At present, there is no law providing for facilities to women workers at their work places. Therefore, it is proposed to provide for a comprehensive legislation to make way for equal wages to women workers and provision of certain facilities to them at their work places.

Hence this Bill.

SYEDA ANWARA TAIMUR.

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for making certain facilities to women workers at their work places. Some of the organisations under the Government have also to provide these facilities. Clause 6 of the Bill provides for the appointment of Inspectors to inspect the facilities provided by the employers.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. A recurring expenditure to the tune of rupees five hundred crore per annum and a non-recurring expenditure of about rupees two hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill provides for framing of rules for carrying out the provisions of the Bill. As the rules will relate to matters of deficits only, the delegation of legislative power is of a normal character.

XVI

BILL NO. CVII OF 2006

A Bill to provide for abolition of child labour in the country and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Child Labour (Abolition and Rehabilitation) Act, 2006.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means in the case of a State. Government of that State and in all other cases, Central Government;

(b) “child” means a person who has not attained the age of eighteen years;

(c) “prescribed” means prescribed by rules made under this Act.

Abolition of
Child Labour

3. Notwithstanding anything contained in any other law for the time being in force, child labour in any form is hereby abolished.

Prohibition
on Child
Employment.

4. The appropriate Government shall ensure that no person employs any child for performance of any of the following work, namely:—

- (i) Domestic work;
- (ii) Agricultural operations;
- (iii) Construction activities and operations of transport industry;
- (iv) Work in shop, factory, any establishment or organisation; and
- (v) Manufacturing, trading or processing activity of any item.

Provided that any child may work at his own residence or perform any domestic work out of his volition.

No establish-
ment to deal
with any
activity or
product
involving
child labour.

5. The appropriate Government within its territorial jurisdiction shall ensure that no establishment sells or buys any product which has been manufactured or processed by any industrial establishment or factory employing child labour and it shall be the duty of every organisation to display in bold letters, at prominent location, in the organisation that it does not deal with any activity or product where child labour is involved.

Penalty.

6. Whoever,—

(i) employs or compels any child to render labour for remuneration without sending him to a school shall be punished with imprisonment for a term which may extend to three months and a fine of rupees ten thousand.

(ii) Where an offence under this Act has been committed by a company, every person who, at the time, offences were committed, was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offences and shall be punished with imprisonment which may extend to six months and a fine of not less than rupees one lakh and not more than ten lakhs, and the license of that organisation shall be cancelled and he shall also be required to meet the educational and such other requirements of the child as may be necessary for his development and education upto graduation level.

Central
Government
to provide
expenditure
to the child
having no
parents

7. If any child is found to be self employed and he has no parents or guardians to support him, he shall be immediately sent to a hostel for studies by the Central Government and all expenditure on this account shall be met by the Central Government.

Act to have
overriding
effect.

8. The provisions of this Act and rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to
make rules

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Child labour is very much prevalent in our country. Millions of children are engaged in various activities like domestic, agriculture, industry, factory, construction activities, etc. Due to poverty, they are sent for work instead of schools for education. Even at the work place, they are harassed, and not even paid the minimum wages. No basic facilities are provided to them. Sometimes, children are also engaged in hazardous industries. These children are forced to work by their parents due to stark poverty.

The Bill seeks to provide for abolition of child labour and provides for their rehabilitation. The Bill also proposes that no child below the age of eighteen years should be employed in any work or activity and those who employ them should not only be subjected to punishment but also they will be required to meet the cost of education of the child.

Moreover, ban on selling the products of the industrial establishments or factories wherein child labour has been engaged for its manufacturing or processing, has also been proposed.

Hence this Bill.

SYEDA ANWARA TAIMUR.

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for educational facilities to those child labour who do not have any parents or guardians. Since educational facilities are already provided in schools without any cost, only nominal expenditure will be involved from the Consolidated Fund of India. A recurring expenditure of about rupees five hundred crore per annum will be involved and a non-recurring expenditure of about rupees two hundred crore is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

XVII

BILL No. CI OF 2006

A Bill to provide for abolition of child marriages and for compulsory registration of all marriages and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Abolition of Child Marriage and Miscellaneous Provisions Act, 2006.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "child" means a person who has not attained the age of eighteen years;

(c) "child marriage" means a marriage to which either of the contracting parties is a child;

(d) "prescribed" means prescribed by rules made under this Act.

3. (1) Child marriage is hereby abolished. Abolition of Child Marriage.
- (2) No person shall marry his or her children below the age of eighteen years.
4. (1) All the marriages solemnized in the country after the commencement of this Act shall be registered within a fortnight of the solemnization of marriage in such manner as may be prescribed. Registration of Marriages.
- (2) It shall be the responsibility of the parents to get the marriage of their children registered with the designated authority.
5. The appropriate Government shall, by notification in the Official Gazette, designate an authority or an officer for registration of marriages, where no such authority or office exists in each district within its jurisdiction. Authority for Registration of Marriages.
6. After the registration of marriage under the provisions of this Act, a marriage certificate shall be issued to the parents giving such details as may be prescribed. Certificate of Marriage Registration.
7. (1) Whoever contravenes the provisions of this Act shall be punishable with imprisonment for a term which may extend to one year and a fine which may extend to one lakh rupees. Penalty.
- (2) Marriages solemnized in contravention of the provisions of this Act shall,—
- (a) be void; and
- (b) not be registered; and
- (c) debar the person from the benefits of various schemes of the appropriate Government.
8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to marriages. Overriding effect of the Act.
9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Child marriages have been prevalent in various parts of the country for a long time because people have no knowledge of the implications of such marriages. The parents of the children usually think that a girl is not safe in their houses after a certain age and because of which, their honour and lives are always at danger. Due to the economic progress and awareness many people have started changing their minds but due to poverty and ignorance many perform such marriages which are harmful and affect the physiological, psychological and emotional development of their children. The early marriage also has several health complications and contributes to the rising population. The Government has, recently, abolished the child labour in the country, therefore, it will be in the fitness of things that the child marriages are also completely abolished so that children are properly looked after and provided education for their development. Alongwith the abolition of the child marriages, registration of all the marriages performed in the country should also be made compulsory. As children of today are future for tomorrow, child marriages should be discouraged and at the same time it is also necessary that parents who indulge in such a practice are punished with fine and imprisonment.

Hence this Bill.

SHOBHANA BHARTIA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. These rules will relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

XVIII

BILL NO. C OF 2006

A Bill to regulate the adoption of children and for matters connected therewith.

BE it enacted by Parliament in the Fifty-seventh Year of Republic of India as follows:—

1. (1) This Act may be called the Adoption of the Children (Regulation) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act, unless the context otherwise requires,—

Definitions

(a) "appropriate government" means in the case of a State the Government of that State and in all other cases the Central Government;

(b) "child" means a person who has not attained the age eighteen years;

(c) "prescribed" means prescribed by rules made under this Act.

No person to
indulge in sale
or purchase of
children.

3. No person shall indulge in sale or purchase of a child in the country.

Organisations
not indulge in
activity re-
lated to adop-
tion of chil-
dren.

4. No organisation or institution shall indulge in any activity connected with either the taking or giving in adoption of children in the country except as provided in this Act.

Establishment
of centre for
Welfare, Reha-
bilitation and
adoption of
children.

5. (1) The appropriate government shall set up a centre to be known as a centre for welfare, rehabilitation and adoption of children in each district of the country with such families and infrastructure as may be prescribed.

(2) The centre set up under sub-section (1) shall take over the custody of all the children from various organisations or institutions which are working in connection with the welfare rehabilitation and adoption of children in that district.

Procedure for
adoption of a
child

6. (1) Whoever, desires to adopt a child shall apply to any centre for Welfare, Rehabilitation and Adoption for adoption of a child and such centre shall, on being satisfied by the genuineness of the adopting person, allowed adoption of child in such manner as may be prescribed.

(2) Any person who adopts a child shall inform the respective centre about the development and welfare of the adopted child from time-to-time until such child attains the age of eighteen years.

7. Whoever violates the provisions of this Act shall be punished with imprisonment for a term, which may extend to five years with and with a fine which may extend to fifty thousand rupees.

Overriding
effect of the
Act

8. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being or in any instrument having the force of law but save as aforesaid, the provisions of this Act shall be in addition to and not in derogation of any other law for the time being applicable to the adoption of children.

Power to make
rules.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provision of this Act.

STATEMENT OF OBJECTS AND REASONS

Recently several cases of sale of children have been reported in the country. Even an educator working with a noted NGO, run by a top police official was arrested on charge of facilitating the sale of children. Many non-government organizations and institutions set up for the purpose of welfare and rehabilitation of orphans and helpless children have also been reportedly involved in nefarious dealings in children for monetary gains. There is no system of verifying the antecedents of persons who seek adoption of children. The loopholes enable child trafficking in the name of adoption of children. At present, there is no law to affectively tackle sale of children. It is, therefore, to enact a law to regulate adoption of children and present sale of children.

The Bill seeks to achieve the above objectives.

SHOBHANA BHARTIA.

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for the setting up of a centre for welfare, rehabilitation and adoption of child in each district of the state. The Central Government will bear expenditure incurred in respect of the Union territories and the state governments will bear expenditure incurred in respect of states from their respective consolidated funds. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about five crore rupees is likely to be involved.

A non-recurring expenditure of about ten lakh rupees is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central government to make rules for carrying out the purpose of the Bill. These rules will relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

XIX

BILL No. LXXIV OF 2006

A Bill further to amend the Payment of Gratuity Act, 1972.

BE it enacted by Parliament in the Fifty-Seventh Year of the Republic of India as follows:—

Short title
and
commence-
ment.

1. (1) This Act may be called the Payment of Gratuity (Amendment) Act, 2006.
- (2) It shall come into force with immediate effect.

Amendment
of long title.

2. In the long title of the Payment of Gratuity Act, 1972 (hereinafter referred to as the principle Act), after the word 'shop' the words "schools, colleges, universities" shall be inserted.

Amendment
of section 2.

3. In section 2 of the principle Act, for clause (e) the following clause shall be substituted, namely:—

'(e) "employee" means any person (other than an apprentice) employed on wages, in any establishment, factory, mine, oilfield, plantation, port, railway company or shop, school, college, university, to do any skilled, semi-skilled or unskilled, manual, supervisory, technical, teaching or clerical work, whether the terms of such employment are express or implied, and whether or not such person is employed in a managerial or administrative capacity, but does not include such person who holds a post under the Central Government or a State Government and is governed by any other Act or by any rules providing for payment of gratuity.'

STATEMENT OF OBJECTS AND REASONS

The Payment of Gratuity Act, 1972 (Act No. 39 of 1972) was enacted by Parliament providing for a scheme for the payment of gratuity to employees engaged in factories, mines, oilfields, plantations, ports, railway companies or shops or other establishments and for matters connected therewith or incidental thereto.

The definition of "employee" as in Section 2 (e) of the Act covers any establishment, factory, mine, oilfield, plantation, port, railway company or shop to do any skilled, semi-skilled, or unskilled, manual, supervisory, technical or clerical work and not those performing teaching jobs in schools, colleges or universities.

This has led to different interpretations as to the applicability of the provisions of the Act to the large sections of teaching professionals resulting in denial of benefit of gratuity on superannuation, etc. to this professional community.

In order to rectify this anomaly and to extend benefit of Gratuity to the teaching community specific amendments to the Act provisions have become necessary to bring the schools, colleges and universities and those performing teaching jobs within the purview of the Act.

This Bill seeks to achieve this objectives.

BRINDA KARAI.

FINANCIAL MEMORANDUM

Clauses 3 of the Bill provides for bringing those engaged in teaching job in schools, colleges and universities within the coverage of the Principal Act.

The expenditure on payment of gratuity to the persons engaged in teaching job in schools, colleges and universities falling within the administrative jurisdiction of the Central Government shall devolve on the Ministry of Human Resource Development.

The expenditure on payment of gratuity to the persons engaged in teaching job in schools, colleges and universities falling within the administrative jurisdiction of the State Governments shall devolve on the respective State Governments.

The expenditure on payment of gratuity to the persons engaged in teaching job in schools, colleges and universities, which are run by private persons/institutions shall be met by the respective employers. However, expenditure in this regard in respect of any institution receiving aid/grant from the University Grants Commission may have to be provided for within such aid/grant.

It will involve recurring expenditure of rupees fifty crore from the consolidated fund of India.

XX

BILL NO. XCI OF 2006

A Bill to provide for protection of personal data and information of an individual collected for a particular purpose by one organization, and to prevent its usage by other organization for commercial or other purposes and entitle the individual to claim compensation or damages due to disclosure of personal data or information of any individual without his consent and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Personal Data Protection Act, 2006.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires:—

(a) "appropriate Government" means in case of a State, the Government of that State and in other cases, the Central Government;

(b) "Data Controller" means Data Controller appointed under section 6;

(c) "personal data" means information or data which relate to a living individual who can be identified from that information or data whether collected by any Government or any private organization or agency;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "processing" means obtaining, recording or holding the personal data or information of an individual and carrying out any operation on the information including alternation, disclosure, transmission, dissemination and destruction.

3. The personal data of any person collected for a particular purpose or obtained in connection with any transaction, whether by appropriate Government or by any private organization, shall not be put to processing without the consent of the person concerned:

Provided that personal data of any person may be processed for any of the following purposes:—

(a) the prevention or detection of crime;

(b) the prosecution of offenders; and

(c) the assessment or collection of any tax or duty.

Provided further that no consent of the individual shall be required if the personal data details of the individual are obtained through sources which have been made public.

4. The personal data of any person collected by an organization whether government or private, shall not be disclosed to any other organization for the purposes of direct marketing or for any commercial gain:

Personal data not to be disclosed.

Provided that personal data of any person may be disclosed to charity and voluntary organizations after obtaining prior consent of the person.

5. Every person whose personal data or details have been processed or disclosed for direct marketing or for any commercial gain without consent shall be entitled to compensation for damages in such manner as may be prescribed.

Compensation for damages in case of disclosure of data information.

6. (1) The appropriate Government shall, by notification in the Official Gazette, appoint as many Data Controllers as may be necessary for over viewing the complaints relating to processing and disclosing of personal data and claim for compensation:

Appointment of Data Controller.

Provided that there shall not be more than three Data Controllers in a State or a Union Territory.

(2) The terms and conditions of service of the Data Controller shall be such as may be prescribed.

(3) The appropriate Government shall provide such number of officers and staff as may be necessary efficient functioning of the Data Controller.

(4) The procedure for appointment of the Data Controllers, their powers and functions shall be such as may be prescribed.

7. Every organization, whether Government or private, engaged in the commercial transaction and collection of personal data of persons shall:—

Obligation on organization collecting personal data.

(i) report to the Data Controller the type of personal data and information being collected by them and the purpose for which it is being or proposed to be used;

(ii) take adequate measures to maintain confidentiality and security in the handling of personal data and information; and

(iii) collect only such information that is essential for completion of any transaction with the individual.

Appropriate Government to provide money.

8. The appropriate Government shall, after due appropriation made in this behalf, provide such sums of money as it may think fit for being utilized for the purpose of this Act.

Penalty.

9. Whoever contravenes or attempts to contravene or abets the contravention of the provisions of this Act shall be punishable with imprisonment for a term, which may extend to three years or with fine, which may extend upto ten lakh rupees or with both:

Provided that the compensation for damages claimed under section 5 shall be in addition to the fine imposed under this section.

Offence by companies

10. Where a person committing a contravention of any of the provisions of this Act or of any rule, made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

Explanation:— For the purpose of this section:—

(i) "Company" means anybody corporate and include a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Summary trial

11. All offences under this Act shall be tried summarily in the manner prescribed for summary trial under the Code of Criminal Procedure, 1973.

2 of 1974.

Power to remove difficulties

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of the period of three years from the date of commencement of this Act.

Savings

13. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to protection of personal data.

Power to make rules

14. The Central Government may, by notification in the Official Gazette make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country, at present, there is no law on protection of personal information and data of an individual collected by various organizations. As a result many a time, personal information of an individual collected for a particular purpose is misused for other purposes also, primarily for direct marketing without the consent of the individual.

The personal data of an individual collected by an organization is at times sold to other organizations for paltry sum in connivance with the employees of the organizations. These organizations with the competition to out do each other enter into the privacy of individual by making direct marketing calls. There has to be some internal confidentiality standard within the system so that personal information of an individual may not be transferred to others, which, at times, causes a lot of distress and embarrassment.

In many countries this right of individual has been recognized as basic civil right as an extension of right to privacy and laws have been enacted to protect the personal data of individuals. Accordingly, there is a need to have a law in our country also for protection of personal information to ensure that personal information of an individual collected for a particular purpose should be used for that particular purpose only and is not revealed to others for commercial or other purposes.

Hence this Bill.

VIJAY J. DARDA.

FINANCIAL MEMORANDUM

Clause 6, of the Bill empowers the appropriate Government to appoint Data Controllers for over viewing the complaints relating to processing and disclosing of personal information and claim for compensation. Clause 8 provides that appropriate Government shall make the funds available for being utilize for the purposes of this Act. Since the expenditure in respect of UTs shall be borne out by Central Government, the Bill if enacted will involve expenditure from the Consolidated Fund of India to the tune of rupees one crore per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for the purposes of this Bill. The rules will relate to matter of details only, the delegation of legislative powers is therefore of normal character.

XXI

BILL NO. LXXXVI OF 2006

A Bill to provide for limitation on the weight of school bags, duties and responsibilities of the schools to ensure the compliance of the limitations so imposed and to provide lockers in schools and to issue necessary instructions for handling and carrying of school bags by children and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

Short title and
commencement.

1. (1) This Act may be called the Children School Bags (Limitation on Weight) Act, 2006.

(2) It shall come into force with immediate effect.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in case of a State the Government of that State and in other cases, all the Central Government;

(b) “prescribed” means prescribed by rules made under this Act;

3. (1) It shall be the duty of the appropriate Government to ensure that the weight of the school bag to be carried by a child of particular class shall not be more than ten per cent of the weight of the child:

Weight of school bag not to be more than ten per cent of body weight.

Provided that there shall not be any school bag for a child studying in nursery and Kindergarten classes.

(2) The appropriate Government, shall in consultation with the Indian Academy of Pediatrics or such other body as may be specified by the Central Government, notify in the Official Gazette, the average weight of the child for a particular class for determining the weight of the school bag.

4. (1) The appropriate Government shall, within its territorial jurisdiction, ensure that every school provides lockers of such size, as may be prescribed, to each student in the school up to class eighth in order to enable him to keep his sports equipments, books and note books in the school.

Appropriate Government to ensure lockers in school.

(2) The appropriate Government shall issue necessary instructions to every school authority wherein every teacher shall have responsibility to inform the students upto class fifth in advance about the books and note books to be brought to school on a particular day.

5. (1) The appropriate Government shall ensure that every school, within its jurisdiction, issues guidelines and instructions prescribing dimensions and the fabric for the school bag for students upto a particular class in such manner as may be prescribed.

Schools to issue guidelines on school bags.

(2) The appropriate Government shall direct every school within its jurisdiction to issue guidelines and ensure that:—

(a) the students should use appropriate school bag with several compartments to balance the weight and broad padded straps for symmetrical distribution of weight on their spine;

(b) the students should always use both straps for carrying school bags and no student is slinging his bag over one shoulder;

(c) the students should always keep the bag down while waiting for the school conveyance or in the school assembly;

(d) the students should bend at knees with back straight while lifting the school bag.

(e) the students should be told how to pack their school bags so that heavy items should be close to the body and not carry unwanted items to school.

6. Any school violating the provisions of this Act and the rules made thereunder shall be liable for fine which may extend to three lakh rupees:

Penalty

Provided that the appropriate Government may, if the school is recognized, derecognize the school in case of second or subsequent violation and rules made under this Act.

7. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to remove difficulties.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

8. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to school bags.

Overriding effect.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules

STATEMENT OF OBJECTS AND REASONS

Small children often have been seen tottering to school with heavy backpacks. The results of this excessive weight is more serious than ever expected. Some children may develop a permanent stoop due to the heavy pressure on their spinal cord, which would lead to permanent damage to their physical structure and back muscles.

It is a medically proven fact that lifting heavy burdens for a long time or distance is not good for anyone, especially children. In the tender age, bones are delicate and excessive weight can misalign the spine leading to offensive skeletal and muscle maturity. Carrying a heavy bag on the back often results in aches in the back and shoulders. Forward bending at the back makes the work of breathing harder. Children carrying bags weighing more than 10 per cent of their body weight have been found to have poorer lung function.

Yet, life goes on as before for most families even after they hear their children complaining about pain in back and neck. Growing weight of school bag and its effect on health of the children has become a matter of grave concern for every parent. School authorities have also been expressing their concern over the issue but nothing is being done to lessen the burden of school bags.

Along with books, children have to carry their sports and other equipment with them. If lockers are provided to children in school, it will allow them to leave sports equipment, and certain books and notebooks in school. Further, the school should issue common instructions to students in advance which books will be needed and which can be left at home and teaching the child to put down the bag when waiting at the bus stop, in the assembly, and to use both straps of the bag, etc. Some schools have adopted a way for reducing the weight of school bags. They don't send all the books back home. Only those books are kept in the bags which the students are required to study at home. This has been working very well for junior classes. Therefore, there is an urgent need to enact legislation for the whole of the country to save the children from carrying heavy loads on their back.

Hence this Bill.

VIJAY J. DARDA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of normal character.

XXII

BILL NO. LXXXIV OF 2006

A Bill to provide for a code of conduct for users of mobile camera phones at certain places including public places; to regulate their use by children; to assign responsibilities on the user to respect the privacy of others and matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Mobile Camera Phone Users (Code of Conduct) Act, 2006.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “camera phone” means and includes any mobile telephone capable of recording video as well as the still photographs;

(b) “child” means a person who has not completed eighteen years of age;

(c) “objectionable content” means taking photograph or video of unclothed body or part of body of a person with or without his knowledge;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "public place" means any place being frequently visited by the public at large and includes government buildings, hospitals, banks, markets, restaurants, clubs, hotels, parks, monuments, libraries, museums and other like places but does not include private residence or gathering;

(f) "public transport" means taxis, buses, trams, rails, ships including other vessels of similar kind, aeroplanes run by government or private sector for the use of general public.

Restriction on use of camera phones in public and other places.

3. (1) No person shall use camera phone to take photograph or record video of any other person without his knowledge or consent in any public place or public transport.

(2) No person shall use camera phone,—

(i) where photography is specifically prohibited; and

(ii) while driving a motor vehicle.

Restrictions on use of camera phones in defence and other establishments.

4. No person shall carry or use camera phone in high security defence establishments, and such other establishments as the Central Government may, by notification in the Official Gazette, declare in order to prevent sensitive information or topography being snapped or leaked.

Prohibition of use of camera phone by children.

5. (1) No child shall be allowed to possess or use a camera phone.

(2) If any child is caught with a camera phone, his parents or any person who, at that time, is the guardian of the child shall be prosecuted in accordance with the provisions of this Act.

Camera phones to flash light or emit sound while taking photo or recording video

6. (1) On and from the appointed day, as the Central Government may appoint in this behalf, no person shall carry or use a camera phone, which does not flash a light or emit sound of a prescribed decibel on taking photograph/recording video.

(2) It shall be the responsibility of every phone company to manufacture only such camera phones which comply with the requirements of sub-section (1) and ensure that there is no provision to disable these features in camera phones.

Central Government to restrict use of camera phones.

7. The Central Government may, by notification in the Official Gazette, restrict the use of camera phones in such areas, as it may deem necessary in the public interest.

Camera phone user to respect the privacy of others

8. It shall be the responsibility of the person using the camera phone to respect the privacy of other and no person shall use the camera phone for shooting and circulating objectionable content.

Manufacturing companies to educate retailers.

9. It shall be the responsibility of the company manufacturing the camera phones to educate the retailer to actively apprise the customers about the appropriate and ethical use of camera phone at the time of purchase.

Central Government to frame mobile camera phone policy.

10. The Central Government shall within six months of the commencement of this Act, shall frame a mobile camera phone policy.

Penalty.

11. Whoever contravenes the provisions of this Act and rules made thereunder shall be punishable with imprisonment which may extend to three years or with fine which may extend to twenty-five thousand rupees or with both:

Provided that if the contravention of the provisions of the Act, and the rules is done by a company, the fine may extend to twenty-five lakhs.

12. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Offences by
companies.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation.— For the purpose of this section:—

(i) “company” means anybody corporate and include a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

2 of 1974.

13. Notwithstanding anything contained in the Code of Criminal Procedure 1973, the offence under this Act shall be cognizable.

Offences to be
cognizable.

14. All offences under this Act shall be tried summarily in the manner prescribed for summary trial under the Code of Criminal Procedure 1973.

Summary trial.

15. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:

Power to
remove
difficulties.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

16. The provisions of this Act shall be in addition to, and not in derogation of, the provisions in any other law, for the time being in force, relating to mobile camera phones.

Overriding
effect.

17. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to
make rules.

STATEMENT OF OBJECTS AND REASONS

There is a quantum jump in the number of mobile camera phone users in the world. The sale of camera phones has outnumbered the sale of stand-alone digital cameras. Our country is no exception to this boom in the users of camera phones. The number of mobile camera phone users is increasing at a tremendous speed along with its misuse. People are secretly taking photographs of women without their knowledge and consent. At times, intimate and private images of women are taken to harass or blackmail them, since photo snapped with these cameras can be transmitted instantly to other cell phones, to e-mail and even to web.

Digital shoplifting by these camera phones is another area of concern. In many places in the world, people are not buying books and magazines as they are snapping them free from the shops using camera phones. Many bookstores have banned the use of camera phone to shoot pages from periodicals instead of buying them as it has a devastating effect on their sales. The corporate espionage has become easy by camera phone as any disgruntled employee can snap and transmit photo of a product development/specifications of product or secret ingredients and destroy the business. Camera phones present a number of risks to intellectual property, trade secrets and other confidential business operations of companies. Customer information can be easily and surreptitiously caught on a camera phone and passed on to other interested parties. One camera phone manufacturing company, has itself banned the use of this phone in their semiconductor and research facilities to stave off industrial espionage.

Another area of concern is the use of camera phones in places where photography is prohibited. People smuggle in small camera phones and take the pictures of various artefacts in museums or in religious places. Use of camera phone can also cause trouble in defence establishments or high security establishments.

Further, camera phone in the hands of students can also be misused by them. There is no need for a child to have a camera phone. At the most, he can be given a cell phone.

The need of the hour is that the Government should come forth and frame a national camera phone policy. In Europe, some gyms and swimming pools have banned camera phone in changing room. In Japan, Singapore and China also a restriction has been imposed on use of camera phones in schools and Government buildings.

Therefore, there is an urgent need to have a legislation on the regulation of use of camera phones in the country.

Hence this Bill.

VIJAY J. DARDA.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 17 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the matter will relate to details only, the delegation of powers is of normal character.

XXIII

BILL NO. CV OF 2006

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2006.

(2) It shall come into force with immediate effect.

2. In the Eighth Schedule of the Constitution of India, the existing entries 17 to 22 shall be re-numbered as entries 18 to 23 respectively and before entry 18 as so re-numbered, the following entry shall be inserted, namely:—

“17 Rajasthani”.

Short title
and
commence-
ment.

Amendment
of Eighth
Schedule.

STATEMENT OF OBJECTS AND REASONS

The language of Rajasthan is Rajasthani which is a very important language of the Indo-Aryan family. Rajasthani has vast literature written in various genres starting from 1000 AD. It is spoken by around eighty million people in Rajasthan and other States of India. The richness of the Rajasthani language and literature has been recognized by the Sahitya Akademi and the University Grants Commission and the language and literature are taught and researched in many universities. The Rajasthan Board of Secondary Education has included Rajasthani in the educational syllabus and it has been an optional subject in Rajasthan since 1973. The Rajasthan Legislature has already passed a resolution to include Rajasthani in the Eighth Schedule of the Constitution. There is a widespread popular demand for the inclusion of Rajasthani language which has every cultural, linguistic and literary justification to be included in the Eighth Schedule of the Constitution. The cultural aspirations of millions of people will be met who take pride in their language and literature which has flourished for many centuries and which the people of Rajasthan would love to preserve and this will be done by the inclusion of Rajasthani in the Eighth Schedule. Thus it would be appropriate to accord recognition to the Rajasthani language and insert it into the Eighth Schedule of the Constitution.

Hence this Bill.

ABHISHEK MANU SINGHVI.

YOGENDRA NARAIN,
Secretary General.